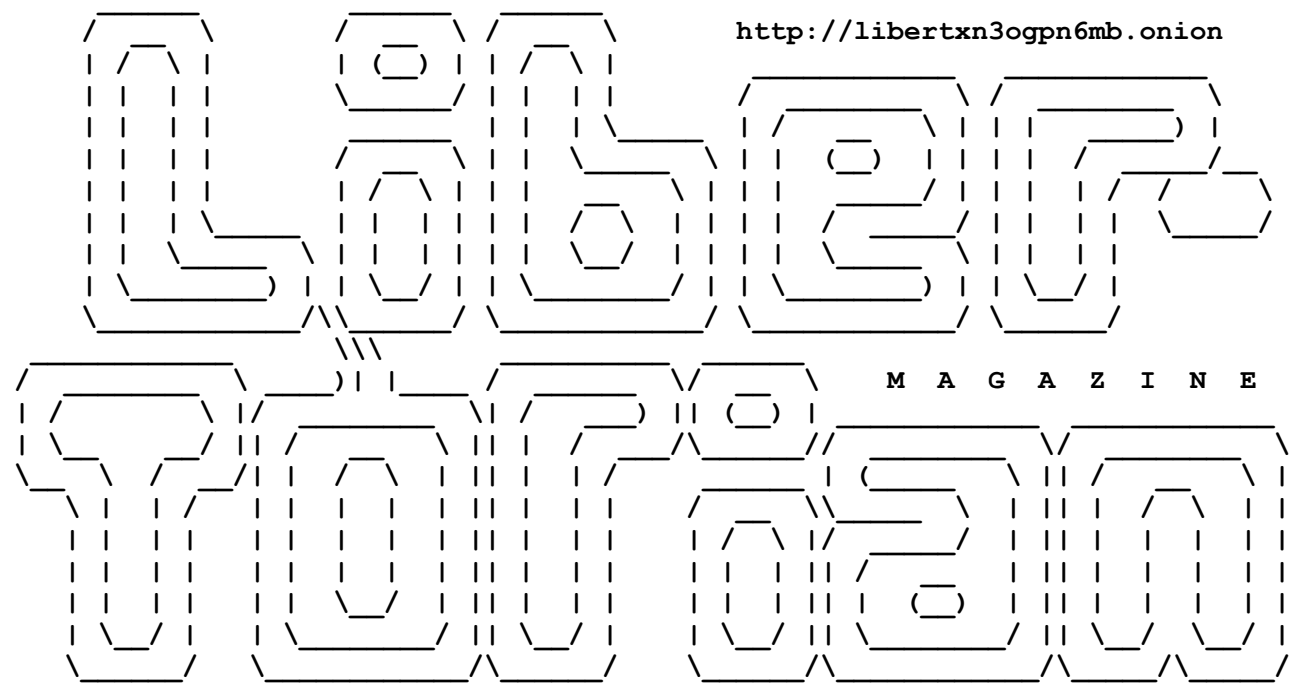

Volume 1 - Issue 5 - August 2015

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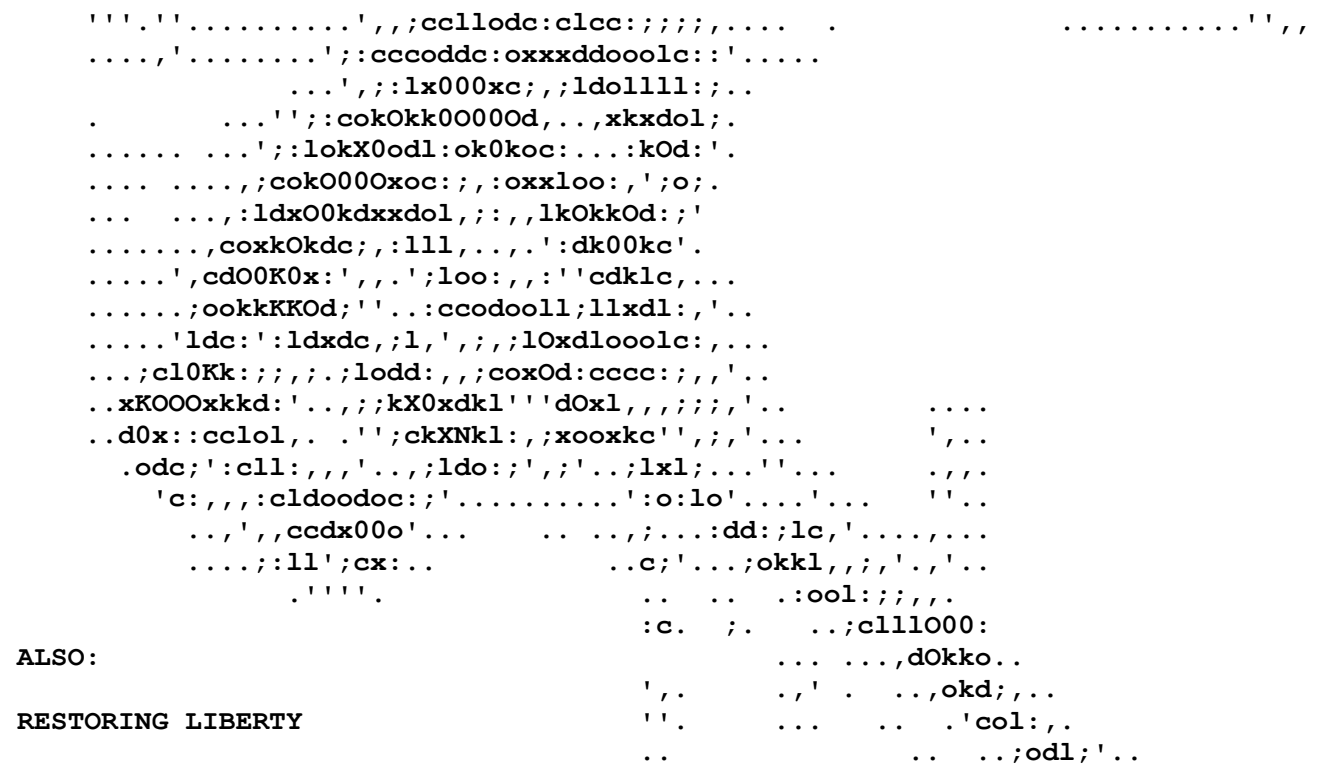

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T A B L E O F C O N T E N T S

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LiberTORian Volume 1, Issue 5

A publication of Synonymous 1.
Published July, 2015.

LiberTORian is published on an irregular basis.

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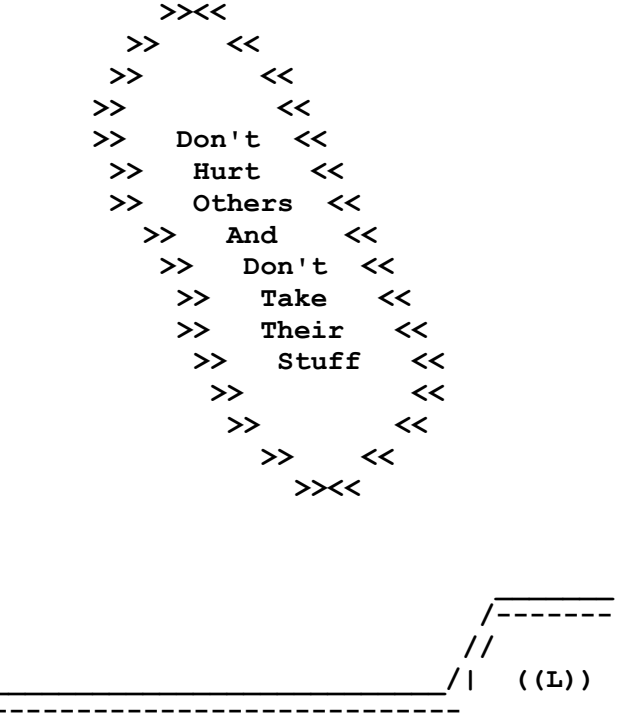

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A C Q U I R I N G R E L A Y

- By Synonymous 1 -

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Much of this issue covers the SCOTUS decision on homosexual marriage. To many who read this, there will be closed-mindedness toward the views presented in this issue. That's because, when the decision was ordered by the Court, all the news coverage was from the point of view of the gay activists. Most people don't even know what the other side even believes. That's because the point of view of the other side was barely shown... or allowed to be shown, by the mainstream media. Instead, any opponents of the ruling are mocked, ridiculed, and depicted as a bunch of intolerant, backwards modern-day equivalents of racists.

We were given mindless platitudes of "love wins", a hashtag coupled with some of the most hateful venom seen on Twitter this side of ISIS. Those opponents who expressed outrage or disapproval were bullied for daring not to go along and fully support all the celebrating going on. It's hard to celebrate the death of fundamental rights.

So presented for not the first time, except to those who don't venture outside the media bubble (that goes for viewers and reporters alike), here is the Constitutional, or libertarian, view on marriage: gay, straight, and et cetera.

LIBER-TOR-IAN STANCE ON MARRIAGE!

The Constitution enumerates the powers of the federal government By enumerated; that means that the only powers that government has are explicitly mentioned in the document itself, and if a power is NOT in the document, the government DOES NOT have the power to regulate. Marriage is NOT in the U.S. Constitution, and thus, it does NOT have the right to perform, license, restrict, or in any other way, interfere with marriage. This includes the Supreme Court.

Marriage is a rite, not a right. Marriages were strictly RELIGIOUS ceremonies until the government interfered. Each religion has a right to decide who it allows or does not allow to marry. If a church wants to only marry one man and one woman (Jews, Catholics, Pentecostals, etc.), or allow gay marriage (reform Episcopal, Unitarian, etc.), or allow marriage among three or more people (Muslims, certain Mormon sects, etc.), it's up to each individual church to decide its own policies, and people may choose to be married in the church that best fits their values. The government has no right dictating to religions, or forcing upon religions decrees that the Constitution forbids them from doing.

The 10TH amendment gives the right of each individual state to decide their policies on non-enumerated powers, including marriage. The Court overstepped their bounds, citing the 14th Amendment, calling marriage a "privilege". A privilege is something the government bestows, and is different than a right. Marriage is not a privilege, as it's not in the government's jurisdiction. And even decisions by individual states on regulating marriage may not infringe on the 1st Amendment right to freedom of religion.

So you see, it's a very tolerant position. The real intolerance is from the gay marriage crowd; why are they so against marriage for more than one man and one woman?

((L))

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LETTERS TO LIBERTORIAN

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LiberTORian,

> The article "The Matrix vs X-Men" didn't really fit your magazine. For the most part it semed [sic] to promote Occupy values and anger fro [sic] all police and government officials and the rich. Libertarians have a problem with many in law inforcement [sic] and government, but are not blanket against them all for the sake of opposing them. And there are rich people who are corrupt but there are many who are not. I can really find the kind of value in that article on so many other onions, so please don't do that here too.
>
> Anonymous

Dear Anonymous,

While the article published did present an Occupy Wall Street view point, it didn't offer opinions to promote those values, however. It only offered analysis of the films in discussion. There was much in the article I disagreed with, but there were some good points too. The article made comparisons that demonstrated changing attitudes toward filmmakers' presentation of authority in film. LiberTORian would like to see more references to social themes in films, and even fiction with Libertarian ideals. As a libertarian, I can handle different points of view. You can also be assured that the magazine will differentiate between a viewpoint and an endorsement. You'll never see within the pages of LiberTORian anyone say, "Eat The Rich! Stop the Jews!" In the future, instead of sending just a letter to us (which is your right), you're welcome to write an article for LiberTORian! ((L))

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MYTHS THAT LIBERALS BELIEVE #7

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"The Founding Fathers were slave owners."

There were 56 Founding Fathers. Thomas Jefferson owned slaves. The other 55 did not.

BONUS MYTHS!!!!!
Myth #8:

Thomas Jefferson had a child with his slave girl."

Maybe or maybe not, but the woman who made this claim on Oprah Winfrey in the 1990s was a fraud. But the media which devoured this story had no interest about this later revelation.

Myth #9:

"There are Muslim Founding Fathers."

This isn't believed by many, but President Obama told this lie in a speech in 2014. The slightest research on this (reading the 56 signatures on the Declaration of Independence and looking up their religion) disproves this easily.

Thanks to Synonymous Xi for the suggestion of these myths.

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DENYING THAT THERE IS CLIMATE?

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Leftists change the language when they can't win an argument. When they lost on "global warming", they changed to "climate change", because how can you deny that the climate changes? Now skeptics are called "climate deniers"! Name one person who denies the EXISTENCE of climate; unless their head's on the moon?

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DEEP WEB LINK OF THE DAY!

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>>> 3g2upl4pq6kufc4m.onion <<<
or
>>> duckduckgo.com <<<

DUCK DUCK GO

http://3g2upl4pq6kufc4m.onion
https://duckduckgo.com

Let's face it. Yahoo sucks. Bing sucks. Google not only sucks, but its search results are horrible and the company is totally evil, criminal, and invades your privacy. Duck Duck Go is a search engine that WILL NOT TRACK your IP address. The company believes in keeping your visits to their sites and all your searches private. Keeping with this tradition, Duck Duck Go also has an established presence in the deep web at 3g2upl4pq6kufc4m.onion.

LiberTORian began using Duck Duck Go before discovering the deep web. It not only protects your privacy, but, since Duck Duck Go doesn't record your personal information, all search term results are equal for any given user. It still returns better results than Google, which recently has skewed its results against more relevant links.

This Philadelphia-based company is the David to Google's Goliath; it's run by less than two dozen people. What really frightens Google is the fact that Duck Duck Go doesn't even try to become king of the hill. And that attitude has caused them to think dynamically and outside of the box; something Google is incapable of.

Even though Duck Duck Go is known by only 2% of web surfers, its impact is huge and growing. Safari and Mozilla added it as a standard option to their browsers. And Duck Duck GO dethroned Google as Gnome's default engine.

The first million searches on Duck Duck Go took four years. Now it conducts 250 million a month. The revelations about NSA spying and other invasions of privacy by the Obama Administration have drawn recent attention to internet search privacy. And they realized that Google wasn't on their side. In _SEARCH ENGINE LAND_ Duck Duck Go critic Danny Sullivan says that the site isn't that popular because, "No One Cares About 'Private' Search". You fool. maybe millions don't, but a sizable number of concerned people do. You just dismissed them. Again: Duck Duck Go doesn't measure its success by how monolithic and overreaching it becomes.

Someone else said the name, "Duck Duck Go", is silly. Please explain the name, "Google".

Results from Duck Duck Go searches come from the clearnet and deep web as well. I typed in a search for LiberTORian and found a deep web link from a pastebin where the first issue was originally posted:

http://pasterlczk6anaqz.onion.city/eelcc92a55.html (DEFUNCT LINK)

I actually took part in a promotion campaign they were running where you refer three people to Duck Duck Go and receive a free T-shirt. I was able to get more than three people to switch, and they were out of shirts for now. Oh, well. I have a raincheck. It's in their best interest that they get them soon, since wearing the shirt gives them free advertising!

Make sure to add Duck Duck Go to the bookmark list on your TOR browser. It's one of the most useful tools for exploring both the deep web and the surface web. ((L))

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MEET THE LIBERTARIANS **- By Synonymous 1 and G.P.S. -**

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CONSTITUTIONAL CONSERVATIVES:

We The People

Anarchism is the most extreme form of individualism on the planet. But it results in chaos unless there is no authority to enforce libertarian values. But how much government should there be? Enter the United States Constitution.

Constitutional Conservatives rely on the Constitution as the fairest and most free government code ever devised. It wasn't easy- a war was fought to attain individual freedom, and an entire system was established afterward that failed: The Articles of Confederation. In 1971, the Constitution was crafted, based upon the principles espoused in the Declaration of Independence. Three branches of government were designed and given checks on the others so no one branch would concentrate too much power. The Constitution clearly defined the powers of government, and their ONLY powers. Those powers that are not enumerated were forbidden. Government was given just enough power to protect individual freedoms from oppressors, and, when the Constitution was enforced, the biggest oppressor, the government, was also unable to infringe on its people.

Despite the lies concocted by university professors in the 1930s, the Founding Fathers were God-fearing people. They believed that rights came from God, not government. The Constitution they drafted did not grant rights; they merely confirmed in a legal system the God-given rights proclaimed in the Declaration of Independence. The Bill of Rights, the first ten amendments of the Constitution, also are God-given rights. As such, they are not laws of man, but God. As such, they can not be taken away by man, since these rights were not granted by man, only affirmed.

A Constitutional Conservative recognizes that the Constitution is the most free system ever devised. It's designed to right wrongs as a nation advances. No one has ever come up with a better way to run a society. A Constitutional Conservative respects the law because it's just, fair, free, has led to the most prosperous and generous nation in the history of the world, and looks to a higher power as the source of freedom, not man or mere law.

A Constitutional conservative looks to the Constitution as the highest authority in the land. It's purpose is twofold: 1) verify the freedoms of mankind, and 2) prevent the government from misusing unjust authority to infringe on the rights of the people.

The Constitutional conservative does look toward the intent of the Founding Fathers when interpreting the Constitution. They were a deeply religious people who held strong to the reliance of strong family units. Parental rights are important to Constitutional conservatives, and with it, the responsibility for involved parents in the upbrining of their children. Adults are expected to instill moral values in their children. This means that they may wish for some government involvement in maintaining moral community standards. This is an area where other libertarians may disagree with Constitutional conservatives. In this group, there are people who wish to restrict access to pornography, advocate for television and the airwaves to be cleaned of obscenity, or the en-

forcement of other social mores. To comply with the U.S. Constitution, they may seek to enforce such regulations at the state level, in line with the Ninth and Tenth Amendments.

The reasoning behind the Constitutinal conservative's strong wish for moral regulation is that they draw a distinction between adults and children. Libertarianism is a philosophy to be practiced by adults but while their children are still young, the parents, as their caretakers, are responsible for their upbringing and moral guidance. Parental rights to raise children the way they wish supersedes the child's rights to do as they wish, as they must face the consequences of the parents. It is the parents' responsibility, then, to instill the values of freedom into their children so they, in turn, can make responsible decisions as adults.

In essence, the parent-child relationship is a microcosm of the Constitutional conservative's system of governance: we are still free to take actions, but if we do harm to others/ disobey our parents, the law/ parent is there to protect the rights of the one harmed/ guide us to be better adults.

The child is born with the Id, so, as parents teach the children to be responsible, they are given freedoms throughout their childhood, until they prove themselves to be full-fledged members of society.
The Constitutional conservative's demands of a government are mainly to assist in this aspect of the moral development of children and little more. As a person matures, he or she will take on greater responsiblities. But a child needs some form of guidance. A young child without direction can run into the middle of a street and be killed without knowing why. Libertarianism requires the ability to discern the consequences of the decisions one makes, at least from the view of the constitutional conservative. ((L))

!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

C O R R E C T I O N ! ! ! !

!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

In LiberTORian issue 2's article, "BitCoin: Commerce with 0s and 1s", we wrote that a Satoshi is the same as a microbitcoin. This is a mistake. A satoshi, as the article stated, is the smallest division of a bitcoin. But it is 1/100th of a microbitcoin:

- 100 satoshi = 1 microbitcoin
- 1000 microbitcoin = 1 millibitcoin
- 1000 millibitcoin = 1 bitcoin.

- 1 bitcoin = 1BTC
- 1 millibitcoin = .001 BTC
- 1 microbitcoin = .000001 BTC
- 1 satoshi = .00000001 BTC

SORRY ABOUT THAT!!!

%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%
People are Sharing LiberTORian
%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%

This Spanish Facebook page, "La Deep Web", contains a screen shot of the LiberTORian web site.

In Spanish, the site wrote:

"LiberTORian is a publication for deep web users... (in English)

http://libertxn3ogpn6mb.onion
Fortran BA"

(Assumed "Fortran BA" is the one who submitted.) THANKS, LA DEEP WEB!

https://es-la.facebook.com/laDeepWeb?_fb_noscript=1 ((L))

CAN AN INFALLIBLE POPE BE WRONG?

- BY SYNONYMOUS 1 -

It's an often heard phrase: "The Pope in infallible". But how often is the phrase understood? How many Catholics think the phrase means the Pope is sinless? How many protestants hear it and wonder how could the church be arrogant enough to proclaim something like that? It is not understood by many people. When a Catholic hears Pope Benedict say, in a statement on global warming, "The Earth is crying out in pain," Practicing Catholics who are trying to do the right thing wonder if they are compromising their faith if they reject such nonsense. To answer the question, let's examine what being infallible means to the Catholic church.

It is a tenet of Catholic faith that the Pope is the figurehead of the church. According to Catholic belief, Jesus enshrined Peter with the keys to the Kingdom of Heaven:

> And I tell you, you are Peter, and on this rock I will build my church, and the powers of death shall not prevail against it. I will give you the keys of the kingdom of heaven, and whatever you bind you bind on earth shall be bound in heaven, and whatever you loose on earth shall be loosed in heaven."
>
> Matthew 16:18,19

Jesus assigned Peter as the vicar of the church He established: the first Pope. Today's Pope is a successor of Peter. The key to infallibility is in the keys, literally. Whatever is loosed on Earth is loosed in Heaven.

What is meant by that is that the church doctrine is the authority of Peter and his successors. This is what is meant by infallibility, and it is all that is meant. It doesn't mean that the Pope is sinless. Peter himself, like all the Popes that succeeded him, was a sinner. He even denied knowing Jesus three times:

> Then a maid, seeing him as he [Peter] sat in the light and gazing at him, said, "This man also was with him [Jesus]." But he denied it, saying, "Woman, I do not know him."
>
> And a little later some one else saw him and said, "You are also one of them." But Peter said, "Man, I am not."
>
> And after an interval of about an hour still another insisted, saying, "Certainly this man was also with him' for he is a Galilean."
>
> But Peter said, "Man, I do not know what you are saying." And immediately, while he was still speaking, the cock crowed.
>
> And the Lord turned and looked at Peter. And Peter remembered the word of the Lord, how he had said to him, "Before the cock crows today, you will deny me three times."
>
> Luke 22:56-61

Jesus chose imperfect men to conduct God's will. The Pope's infallibility is not at all interpreted to

mean that he is perfect or incapable of sin. Protestants sometimes are critical of Catholics, mistakenly believing that they consider the Pope to be without sin. It's not what they believe.

Whenever there is a question about rituals for Christians, the Pope's infallibility means that his word on the issue is the Church's position. The decision is not the Pope's to make himself. Instead, according to Catholic belief, he is guided by the Holy Spirit to the decision. The Pope does not come up with the answer himself, but prays for it to be revealed to him through the Holy Spirit. When Peter was the Pope, there was a dispute among the converts from Judaism. The Jews were adhering to the kosher laws, including not eating meat and dairy in the same meal, and avoiding pork. Those who converted from pagan and other religions were not. Many of Jews said that the gentiles must adhere to the laws of the Torah, and the gentiles said that it's not a part of being a Christian. So Peter prayed for guidance by the Holy Spirit, and in a dream, received an answer.

> The next day, as they were on their journey and coming near the city, Peter went up on the housetop to pray, about the sixth hour. And he became hungry and desired something to eat; but while they were preparing it, he fell into a trance and saw the heaven opened, like a great sheet, let down by four corners upon the earth. In it were all kinds of animals and reptiles and birds of the air.
>
> And there came a voice to him, "Rise, Peter; kill and eat." But Peter said, "No, Lord, for I have never eaten anything that is common or unclean."
>
> And the voice came to him again a second time, "What God has cleansed, you must not call common."
>
> This happened three times, and the thing was taken up at once to heaven.
>
> Acts 10:9-16

The passage continues to indicate that Peter still was unclear by the message, but Cornelius, a centurion, was prompted by an angel to interpert the dream to Peter to indicate that followers in the Church were no longer required to adhere to the kosher rules.

This is what the infallibility of the Pope is referring to. There was a conflict within the church on an official position, and the Pope, who is guided by the Holy Spirit, was given the answer. Note that the Pope himself doesn't make the decision, but the answer come to him through God.

A similar situation occurs in the Book of Acts, when the apostles were gathered in an early Ecumenical Council (though it didn't go by that name at the time). They chose a successor to Judas, who hung himself on the day of Jesus' crucifixion.

> "For it is written in the Book of Psalms, 'Let his habitation become desolate, and let there be no one to live in it', and 'His office let another take.'
>
> And they put forward two, Joseph called Barsabbas, who was surnamed Justus, and Matthais. And they prayed and said, "Lord, who knowest the hearts of all men, show which one of these two thou has chosen to take the place in this ministry and apostleship from which Judas turned aside, to go to his own place."
>
> And they cast lots for them, and the lot fell on Matthias, and he was enrolled with the eleven apostles." (Acts 1:20, 23-26)

Note again that the apostles didn't


SAINT PETER

simply take it upon themselves, but prayed for guidance from God to provide the answer to them. The Pope's infallibility has nothing to do with his character or a perception that he is sinless. It only means that all the decisions that the Pope makes regarding church doctrine is always right, and that is because those decisions are guided by the Holy Spirit working through him.

If you are a Catholic, this may seem to be disturbing, considering that Pope Francis has made many comments that libertarian Catholics have a problem with. His surprise attacks on capitalism came after condemning "social justice" as from the Devil. His most recent statement on global warming is better fitting to Greenpeace than the Vatican. So, does the Pope's infallibility mean that Catholics have to accept his statements or consider themselves to be heretics?

The answer is NO. Every Pope is a regular human being, with faults, sins, and opinions. Pope Francis is no exception. His opinions, while at times wrongheaded, are just that: his opinions. His opinions are as personal as yours and mine, and are not church doctrine. So, you don't have to agree when the Pope says the Earth is "Crying out in pain". To be accurate, anthropomorphizing the planet Earth is more in line with pagan beliefs than the holy Catholic Church. Also, the Earth is not in pain. Earth is resilient, and we humans are late arrivals to it. It was fine without us and it will be fine with us and it will be fine after us.

The Pope's science adviser is in all truth a pro-global warming extremist who does a lot of politicking, and censoring scientists with opposing views, to influence the Pope's views on global warming. It is a far cry from receiving guidance from the Holy Spirit.

In summary, the two things a Catholic or a critic of Catholicism should take away from this understanding of the Pope are:

1) The Pope's infallibility doesn't imply that he's sinless, or in some other way perfect or better than others. It only means that he's Christ's visible representative of His church on Earth.

2) The Pope's infallibility only applies to Church doctrine, not any other aspect of the church. It doesn't apply to this personal opinions, and Catholics are free to disagree with the Pope without feeling ostracized.

Hopefully, this insight into the beliefs of the Catholic church will provide a better understanding of their customs, believers and non-believers alike. Remember that part of being a libertarian is to respect the right of people to follow their own religious calling, if any. And one way to do that is to understand WHY people believe what they do.((L))

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HILLARY HAS THE MEDIA ON A STRING

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During 4th of July weekend, Hillary Clinton appeared in a parade or something. The media sycophants obliged to her latest demand: they must be inside a giant lasso as she walked backwards at a safe distance. This actually feeds into the stereotype of her as someone too cowardly to face anything outside her controlled bubble, especially tough questions, and the stereotype of the mainstream media, strung by a leash as they follow her wherever she takes them! Sorry, the last thing we need is a president who is out of touch with the real world, and who sets themselves apart from how others live!

Cite as: 576 U. S. ____ (2015)

SUPREME COURT OF THE UNITED STATES

Nos. 14–556, 14-562, 14-571 and 14–574

JAMES OBERGEFELL, ET AL., PETITIONERS
14–556 v.
RICHARD HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL.;

VALERIA TANCO, ET AL., PETITIONERS
14–562 v.
BILL HASLAM, GOVERNOR OF TENNESSEE, ET AL.;

APRIL DEBOER, ET AL., PETITIONERS
14–571 v.
RICK SNYDER, GOVERNOR OF MICHIGAN, ET AL.; AND

GREGORY BOURKE, ET AL., PETITIONERS
14–574 v.
STEVE BESHEAR, GOVERNOR OF KENTUCKY

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[June 26, 2015]

JUSTICE SCALIA, with whom JUSTICE THOMAS joins, dissenting.

I join THE CHIEF JUSTICE [Roberts]'s opinion in full. I write separately to call attention to this Court's threat to American democracy.

The substance of today's decree is not of immense personal importance to me. The law can recognize as marriage whatever sexual attachments and living arrangements it wishes, and can accord them favorable civil consequences, from tax treatment to rights of inheritance.

Those civil consequences— and the public approval that conferring the name of marriage evidences— can perhaps have adverse social effects, but no more adverse than the effects of many other controversial laws. So it is not of special importance to me what the law says about marriage. It is of

overwhelming importance, however, who it is that rules me. Today's decree says that my Ruler, and the Ruler of 320 million Americans coast-to-coast, is a majority of the nine lawyers on the Supreme Court. The opinion in these cases is the furthest extension in fact— and the furthest extension one can even imagine— of the Court's claimed power to create "liberties" that the Constitution and its Amendments neglect to mention. This practice of constitutional revision by an unelected committee of nine, always accompanied (as it is today) by extravagant praise of liberty, robs the People of the most important liberty they asserted in the Declaration of Independence and won in the Revolution of 1776: the freedom to govern themselves.

I

Until the courts put a stop to it, public debate over same-sex marriage displayed American democracy at its best. Individuals on both sides of the issue passionately, but respectfully, attempted to persuade their fellow citizens to accept their views. Americans considered the arguments and put the question to a vote. The electorates of 11 States, either directly or through their representatives, chose to expand the traditional definition of marriage. Many more decided not to.^1 Win or lose, advocates for both sides continued pressing their cases, secure in the knowledge that an electoral loss can be negated by a later electoral win. That is exactly how our system of government is supposed to work.^2

The Constitution places some constraints on self-rule—constraints adopted by the People themselves when they ratified the Constitution and its Amendments. Forbidden are laws "impairing the Obligation of Contracts,"^3 denying "Full Faith and Credit" to the "public Acts" of other States,^4 prohibiting the free exercise of religion,^5 abridging the freedom of speech,^6 infringing the right to keep and bear arms,^7 authorizing unreasonable searches and seizures,^8 and so forth. Aside from these limitations, those powers "reserved to the States respectively, or to the people"^9 can be exercised as the States or the People desire. These cases ask us to decide whether the Fourteenth Amendment contains a limitation that requires the States to license and recognize marriages between two people of the same sex. Does it remove that issue from the political process?

Of course not. It would be surprising to find a prescription regarding marriage in the Federal Constitution since, as the author of today's opinion reminded us only two years ago (in an opinion joined by the same Justices who join him today):

> "[R]egulation of domestic relations is an area that has long been regarded as a virtually exclusive province of the States."^10
>
> "[T]he Federal Government, through our history, has deferred to state-law policy decisions with respect to domestic relations."^11

But we need not speculate. When the Fourteenth Amendment was ratified in 1868, every State limited marriage to one man and one woman, and no one doubted the constitutionality of doing so. That resolves these cases. When it comes to determining the meaning of a vague constitutional provision— such as "due process of law" or "equal protection of the laws"—it is unquestionable that the People who ratified that provision did not understand it to prohibit a practice that remained both universal and uncontroversial in the years after ratification.^12 We have no basis for striking down a practice that is not expressly prohibited by the Fourteenth Amendment's text, and that bears the

endorsement of a long tradition of open, widespread, and unchallenged use dating back to the Amendment's ratification. Since there is no doubt whatever that the People never decided to prohibit the limitation of marriage to opposite-sex couples, the public debate over same-sex marriage must be allowed to continue.

But the Court ends this debate, in an opinion lacking even a thin veneer of law. Buried beneath the mummeries and straining-to-be-memorable passages of the opinion is a candid and startling assertion: No matter what it was the People ratified, the Fourteenth Amendment protects those rights that the Judiciary, in its "reasoned judgment," thinks the Fourteenth Amendment ought to protect.^13 That is so because "[t]he generations that wrote and ratified the Bill of Rights and the Fourteenth Amendment did not presume to know the extent of freedom in all of its dimensions . . . . "^14 One would think that sentence would continue: ". . . and therefore they provided for a means by which the People could amend the Constitution," or perhaps ". . . and therefore they left the creation of additional liberties, such as the freedom to marry someone of the same sex, to the People, through the never-ending process of legislation." But no. What logically follows, in the majority's judge-empowering estimation, is: "and so they entrusted to future generations a charter protecting the right of all persons to enjoy liberty as we learn its meaning."^15 The "we," needless to say, is the nine of us. "History and tradition guide and discipline [our] inquiry but do not set its outer boundaries."^16 Thus, rather than focusing on the People's understanding of "liberty"— at the time of ratification or even today— the majority focuses on four "principles and traditions" that, in the majority's view, prohibit States from defining marriage as an institution consisting of one man and one woman.^17

This is a naked judicial claim to legislative—indeed, super-legislative—power; a claim fundamentally at odds with our system of government. Except as limited by a constitutional prohibition agreed to by the People, the States are free to adopt whatever laws they like, even those that offend the esteemed Justices' "reasoned judgment." A system of government that makes the People subordinate to a committee of nine unelected lawyers does not deserve to be called a democracy.

Judges are selected precisely for their skill as lawyers; whether they reflect the policy views of a particular constituency is not (or should not be) relevant. Not surprisingly then, the Federal Judiciary is hardly a cross-section of America. Take, for example, this Court, which consists of only nine men and women, all of them successful lawyers^18 who studied at Harvard or Yale Law School. Four of the nine are natives of New York City. Eight of them grew up in east- and west-coast States. Only one hails from the vast expanse in-between. Not a single South-westerner or even, to tell the truth, a genuine Westerner (California does not count). Not a single evangelical Christian (a group that comprises about one quarter of Americans^19), or even a Protestant of any denomination. The strikingly unrepresentative character of the body voting on today's social upheaval would be irrelevant if they were functioning as judges, answering the legal question whether the American people had ever ratified a constitutional provision that was understood to proscribe the traditional definition of marriage. But of course the Justices in today's majority are not voting on that basis; they say they are not. And to allow the policy question of same-sex marriage to be considered and resolved by a select, patrician, highly unrepresentative panel of nine is to violate a principle even more fundamental than no taxation without representation: no social transformation without representation.

II

But what really astounds is the hubris reflected in today's judicial Putsch. The five Justices who compose today's majority are entirely comfortable concluding that every State violated the Constitution for all of the 135 years between the Fourteenth Amendment's ratification and Massachusetts' permitting of same-sex marriages in 2003.^20 They have discovered in the Fourteenth Amendment a "fundamental right" overlooked by every person alive at the time of ratification, and almost everyone else in the time since. They see what lesser legal minds— minds like Thomas Cooley, John Marshall Harlan, Oliver Wendell Holmes, Jr., Learned Hand, Louis Brandeis, William Howard Taft, Benjamin Cardozo, Hugo Black, Felix Frankfurter, Robert Jackson, and Henry Friendly— could not. They are certain that the People ratified the Fourteenth Amendment to bestow on them the power to remove questions from the democratic process when that is called for by their "reasoned judgment." These Justices know that limiting marriage to one man and one woman is contrary to reason; they know that an institution as old as government itself, and accepted by every nation in history until 15 years ago,^21 cannot possibly be supported by anything other than ignorance or bigotry. And they are willing to say that any citizen who does not agree with that, who adheres to what was, until 15 years ago, the unanimous judgment of all generations and all societies,stands against the Constitution.

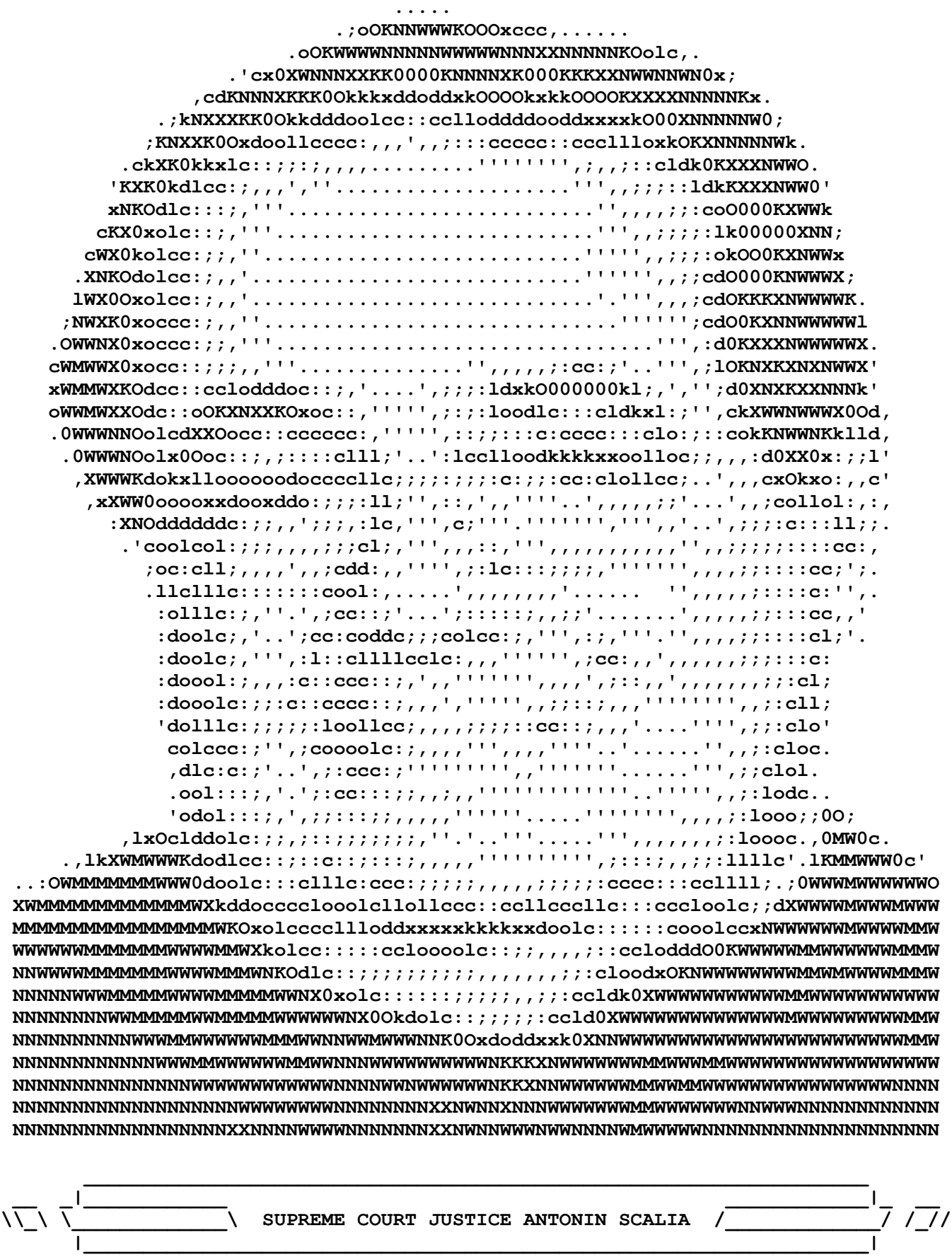
The opinion is couched in a style that is as pretentious as its content is egotistic. It is one thing for separate concurring or dissenting opinions to contain extravagances, even silly extravagances, of thought and expression; it is something else for the official opinion of the Court to do so.^22 Of course the opinion's showy profundities are often profoundly incoherent. "The nature of marriage is that, through its enduring bond, two persons together can find other freedoms, such as expression, intimacy, and spirituality."^23 (Really? Who ever thought that intimacy and spirituality [whatever that means] were freedoms? And if intimacy is, one would think Freedom of Intimacy is abridged rather than expanded by marriage. Ask the nearest hippie. Expression, sure enough, is a freedom, but anyone in a long-lasting marriage will attest that that happy state constricts, rather than expands, what one can prudently say.) Rights, we are told, can "rise . . . from a better informed understanding of how constitutional imperatives define a liberty that remains urgent in our own era."^24 (Huh? How can a better informed understanding of how constitutional imperatives [whatever that means] define [whatever that means] an urgent liberty [never mind], give birth to a right?) And we are told that, "[i]n any particular case," either the Equal Protection or Due Process Clause "may be thought to capture the essence of [a] right in a more accurate and comprehensive way," than the other, "even as the two Clauses may converge in the identification and definition of the right."^25 (What say? What possible "essence" does substantive due process "capture" in an "accurate and comprehensive way"? It stands for nothing whatever, except those freedoms and entitlements that this Court really likes. And the Equal Protection Clause, as employed today, identifies nothing except a difference in treatment that this Court really dislikes. Hardly a distillation of essence. If the opinion is correct that the two clauses "converge in the identification and definition of [a] right," that is only because the majority's likes and dislikes are predictably compatible.) I could go on. The world does not expect logic and precision in poetry or inspirational pop-philosophy; it demands them in the law. The stuff contained in today's opinion has to diminish this Court's reputation for clear thinking and sober analysis.

* * *

Hubris is sometimes defined as o'er weening pride; and pride, we know, goeth before a fall. The Judiciary is the "least dangerous" of the federal branches because it has "neither Force nor Will, but merely judgment; and must ultimately depend upon the aid of the executive arm" and the States, "even for the efficacy of its judgments."^26 With each decision of ours that takes from the People a question properly left to them— with each decision that is unabashedly based not on law, but on the "reasoned judgment" of a bare majority of this Court— we move one step closer to being reminded of our impotence.

ENDNOTES

1 Brief for Respondents in No. 14-571, p. 14.
2 Accord, Schuette v. BAMN, 572 U. S. ___, ___-___ (2014) (plurality opinion) (slip op., at 15-17).
3 U. S. Const., Art. I, §10.
4 Art. IV, §1.
5 Amdt. 1.
6 Ibid.
7 Amdt. 2.
8 Amdt. 4.
9 Amdt. 10.
10 United States v. Windsor, 570 U. S. ___, ___ (2013) (slip op., at 16) (internal quotation marks and citation omitted).
11 Id., at ___ (slip op., at 17).
12 See Town of Greece v. Galloway, 572 U. S. ___, ___-___ (2014) (slip op., at 7-8).
13 Ante, at 10.
14 Ante, at 11.
15 Ibid.
16 Ante, at 10-11.
17 Ante, at 12-18.
18 The predominant attitude of tall-building lawyers with respect to the questions presented in these cases is suggested by the fact that the American Bar Association deemed it in accord with the wishes of its members to file a brief in support of the petitioners. See Brief for American Bar Association as Amicus Curiae in Nos. 14-571 and 14- 574, pp. 1-5.
19 See Pew Research Center, America's Changing Religious Landscape 4 (May 12, 2015).
20 Goodridge v. Department of Public Health, 440 Mass. 309, 798 N. E. 2d 941 (2003).
21 Windsor, 570 U. S., at ___ (ALITO, J., dissenting) (slip op., at 7).
22 If, even as the price to be paid for a fifth vote, I ever joined an opinion for the Court that began: "The Constitution promises liberty to all within its reach, a liberty that includes certain specific rights that allow persons, within a lawful realm, to define and express their identity," I would hide my head in a bag. The Supreme Court of the United States has descended from the disciplined legal reasoning of John Marshall and Joseph Story to the mystical aphorisms of the fortune cookie.
23 Ante, at 13.
24 Ante, at 19.
25 Ibid.
26 The Federalist No. 78, pp. 522, 523 (J. Cooke ed. 1961) (A. Hamilton).


SUPREME COURT JUSTICE ANTONIN SCALIA

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RANDOMLY READ TWITTER POSTING:

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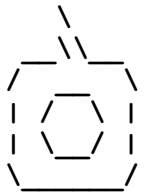
The Supreme Court can't force non constitutional rights by infringing on fundamental constitutional rights



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INDEX OF FTP/DOCUMENTS/JOURNAL

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_____ _____
_____\ Log of July 2nd, 2015. /_____

This is the anniversary of Delaware, the First State, ratifying the U.S. Declaration. I'm now comfortable with visiting onion sites, and am still making logs for myself, taking notes on sites I've visited that I'd like to remember.

****

2015-07-02

I visited several noteworthy onions that are useful or contain helpful information.

First, I found what is called the SHADOW WEB GATEWAY. They want you to pay .3 BTC (about $70) to get their browser bundle (or some link) and access instructions. The SHADOW WEB sites end in .shweb, and promoted itself as "host[ing] the content too dark for the deep web". This sounds like a new sub-level of the deep web, sort of like that phony diagram of the deep web with all these "levels", and mariana's web as one of the levels. Maybe it wasn't as phony as I once believed.

The web site ends in "here", and links to a video I haven't seen. But I'm wondering: if this is "too dark", it has got to be the most depraved stuff imaginable, and I couldn't imagine some of the depravity that it on the deep web. What is it: ISIS? Planned Parenthood? Sadist videos? And if it is the worst of the worst, who would want to pay for access to it? Or maybe it's too dark because of the opposite reason: it's information that opposes oppression, and is dangerous to oppressors. Somehow I think it's the former.

Shadow Web Gateway
vqu4mm5lcjmlqohh.onion

I saw a video that supposedly describes it. It was one of those sick minded urban legend type stories. There's five minutes of my life I won't get back. It seems like the site is just a fix for sick people by sick people making money off them. Well, I can get that for free.

Next, and by "next", I mean the next site of anything useful or interesting, I came across somethng called "Thoughtcrime with Sarah." Contains a word from Orwell's "1984" and so I was intrigued enough to click. The site contained a single entry in .txt format, much like a vintage eZine:

JOURNAL ENTRY
8 May 2015

> "The internet vigilantes are strong today. Ill-considered Twitter marketing strategy from Spotify. For Mothers Day they asked users to say how they would explain Spotify to their mother. Implied that mothers would not understand much in response. Not inclined to feel sorry for Spotify. A big business should know how not to be a f***wit online. I worry that an individual will suffer the same fate. Maybe not deserved.
>
> The vigilantes... these do-gooder keyboard warriors. They are solving the world's problems one outraged tweet at a time. I suppose I should appreciate their work. It's hard."

Needless to say, an individual _ALREADY SUFFERED_ the same fate. Look up the creator of JavaScript.

Thoughtcrime With Sarah
w4ztrr7ht36lzucy.onion

With the Silk Road and Silk Road 2 taken down, there are successors, "The Green Road" and "Silk Road 3". Meanwhile it seems like at every turn there is someone who wants to be the next Silk Road, including many sites from Netherlands and even more from Russia.

Drugs are plentiful and easily available on the deep web; that is, if they're reliable sources. I will never care enough to find out as I hate this stuff.

Eventually I came across "ProPublica", which calls itself "investigative journalism". A cursory evaluation indicates that it's not so balanced; on the whole site, not one report was on any of the president's violations. The fact that it actually won a Pulitzer Prize also makes me wonder. I sent a link to LiberTORian to see if anyone there had any interest. Let's see if I hear anything from them.

ProPublica
propub3r6espa33w.onion

SALTY PLANET is next; they are self-proclaimed "NSA Watchmen". I've read documents in their log and they seem much more objective than ProPublica, just calling things as they see them. A must-read for every libertarian. They do the research and don't play politics, just advocate freedom from electronic invasions of Constitutional rights.

Salty Planet
3redy3uikv2cmd75.onion

For fans of pop culture, this is a really cool site, SkeleTOR.bit. I think I found that BIT goes beyond BitCoin. Now there's BitMessage (or its unfortunate acronym, BM). Here's the site:

> "SKELETOR?.?bit is the future home of the Masters of the Universe CGI motion picture project, an endeavor by enthusiasts to animate the first two volumes of the 1980s mini-comics.
>
> For news, subscribe to our Bitmessage address:

BM- 2cVYjbUkPZ17gyLJgAfE7D7mR5u1v7UzoQ "

SkeleTOR.bit
okzatvfk2jzgvmf4.onion

The Tin Hat is a guide to protecting your privacy, and keeping up to date with privacy techniques.

The Tin Hat
qza32xuddl3guikc.onion

WE FIGHT CENSORSHIP is a place that posts censored news and reports on government censorship of news. The focus in the most recent articles is Venezuela (the same country whose authoritarian grasp of the internet is something that, when America did it, E.F.F. SUPPORTED!!!) and Islamic nations. They accept censored articles and articles that caused people to be jailed for speaking them. They seem to have no political agenda, just stand for freedom of speech.

We Fight Censorship
3kyl4i7bfdgwelmf.onion

NOT EVIL is a search engine that searches the deep web. It's hilarious because its logo is a parody of GOOGLE's logo, and it mocks their hypocritical motto: "Don't Be Evil." They're the most evil company on Earth next to Planned Parenthood! Their results aren't half bad.

Not Evil
hss3uro2hsxfogfq.onion

Onion soup is more of an anti-government/all cops and law enforcement are evil site in general than a "keep your hands off my liberties" site. It covers a broad range of topics. It strikes correct often, but it also fails in many respects. For instance, they beat the "Iran had no WMDs in 2003" drum as though it was true Idisproven in 2014). If you're anti-war, fine, but don't use falsehoods or you're no better than a corrupt government. The truth has no agenda. I still like much of their message, as they are aware of the liberties being taken away from Americans. I directed them to LiberTORian in a message.

Onion Soup
[REMOVED because I no longer have interest in the site; see below]

UPDATE: Onion Soup is truly a full-fledged anti-America anti-law enforcement site and NOT a human rights/individual liberty site. Free speech gives this site a right to speak, but this site has a loose grip on reality, even saying ISIS is more humane than U.S. police in post 14:

> "(14) Assume that the ISIS beheading videos are authentic. If you compare the Kelly Thomas (and other cops-slaughtering-civilians) videos with the ISIS videos, the technique of ISIS executioners is no more in-humane than that of US cop executioners. The US government neither invaded (nor threatened to invade) Fullerton, CA after the video - below - was circulated. One of the stated goals for re-invading Iraq and invading Syria (however cynical) is to "protect" foreigners from harm at the hands of foreign thugs. This queer

duality of "protecting" foreigners from foreign thugs but abandoning Americans to domestic thugs demonstrates the warped priorities of the US government."

ASSUME THAT THE ISIS BEHEADING VIDEOS ARE AUTHENTIC? _ASSUME?!!_ They don't exactly have ILM doing "special effects". I saw enough of the beheadings to know they were real, before I got so sick and had to turn away. Why don't you visit the very real life, easy to locate families of the victims and tell them you don't even believe that those deaths were real? This make me sick. And secondly, yeah, I know the cop video in question. That was one evil cop, but that was ONE. And despicable as it was, it PALED in comparison to the horrific method of deaths suffered under ISIS. Did you even WATCH an ISIS video? In particular the mass beheading on the beach video? Stop apologizing for them. You don't hurt, let alone KILL people in the name of religious statism! I care about freedom for all and equal justice against those who are corrupt in government, but I do not hate for America itself or government itself or the good people in law enforcement and politics. America is the greatest, most free system the world has ever seen, when it's allowed to work. The problem does not lie with America. It is people who disobey and disregard the law and turn the system of justice into a sword to attack freedom who are the problem. Hating all cops and sympathizing with evil (ISIS) is not the answer. The answer is making the corrupt abusers of power, who think they are above the Constitution, face justice. Only when enough people care about their own freedom, and that of their fellow man, will that happen.

soupksx6vqh3ydda.onion

* * *

WikiLeaks is pathetic. I wonder what their true motives are, but it's surely not in the name of freedom. I conducted a search on their web site, after clearnet searches failed, to see where I can find the most recent "leaked" Hillary Clinton emails. The searches yielded nothing from those, or the past, or anything important. But they sure did turn up a lot of pro-Hillary pages on their site, including tons of pages of fundraising. WikiLeaks and Julian Assange are stupid. Edward Snowden they are not. Evil for evil's sake. Their statement must be, "if we can steal it, we'll post it, just because we can. Let the chips fall where they may." The only thing they were good for were the ClimateGate emails, and I found them somewhere else!

WikiLeaks
Not even noting the URL as I'm sick of them. Why would I need it if I don't even want to visit?

&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&
ALL POINTS BULLETIN
&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&&

LiberTORian is seking a deep web user named Zinov. He runs an onion site called "Zinov's Gopher Menu". The site as located at this address:

http://jewjewkeei4o4bvn.onion

Zinov's site contains texts of interest to libertarians. He asks for people to write to him, but there is no contact information anywhere on the site. If Zinov, or anyone who knows how to reach him, has an email address, please send this information to LiberTORian at:

synonymous1@ruggedinbox.com

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CLASSIC .TXT FILE OF THE DAY >> 1776paid.txt <<

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It's the 4th of July as I'm typing this, so I thought you'd like a reminder, or to be informed for the first time, what happened to the 56 signers of the Declaration of Independence. I think this file dates from the late 1980s.

But it still circulates today on clearnet. Here's the original text, exactly as it originally appeared, formatting and all.

****

THE PRICE THEY PAID

Have you ever wondered what happened to the 56 men who signed the Declaration of Independence?

Five signers were captured by the British as traitors, and tortured before they died. Twelve had their homes ransacked and burned. Two lost their sons in the revolutionary army, another had two sons captured. Nine of the 56 fought and died from wounds or hardships of the revolutionary war.

They signed and they pledged their lives, their fortunes, and their sacred honor.

What kind of men were they? Twenty-four were lawyers and jurists. Eleven were merchants, nine were farmers and large plantation owners, men of means, well educated. But they signed the Declaration of Independence knowing full well that the penalty would be death if they were captured.

Carter Braxton of Virginia, a wealthy planter and trader, saw his ships swept from the seas by the British Navy. He sold his home and properties to pay his debts, and died in rags.

Thomas McKeam was so hounded by the British that he was forced to move his family almost constantly. He served in the Congress without pay, and his family was kept in hiding. His possessions were taken from him, and poverty was his reward.

Vandals or soldiers or both, looted the properties of Ellery, Clymer, Hall, Walton, Gwinnett, Heyward, Ruttledge, and Middleton.

At the battle of Yorktown, Thomas Nelson Jr., noted that the British General Cornwallis had taken over the Nelson home for his headquarters. The owner quietly urged General George Washington to open fire. The home was destroyed, and Nelson died bankrupt.

Francis Lewis had his home and properties destroyed. The enemy jailed his wife, and she died within a few months.

John Hart was driven from his wife's bedside as she was dying. Their 13 children fled for their lives. His fields and his gristmill were laid to waste. For more than a year he lived in forests and caves, returning home to find his wife dead and his children vanished. A few weeks later he died from exhaustion and a broken heart. Norris and Livingston suffered similar fates.

Such were the stories and sacrifices of the American Revolution. These were not wild eyed, rabble-rousing ruffians. They were soft-spoken men of means and education. They had security, but they valued liberty more. Standing tall, straight, and unwavering, they pledged: "For the support of this declaration, with firm reliance on the protection of the divine providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honor."

Targetshooter's notes:
They gave you and I a free and independent America. The history books never told you a lot of what happened in the revolutionary war. We didn't just fight the British. We were British subjects at that time and we fought our own government! Perhaps you can now see why our founding fathers had a hatred for standing armies, and allowed through the second amendment for everyone to be armed.

Frankly, I can't read this without crying. Some of us take these liberties so much for granted.

We shouldn't.

Peace my friends,
Garry Hildreth
(Targetshooter)
Erie, Pa

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R E S T O R I N G   L I B E R T Y

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Our Constitution needs our help. We've all seen or read in the media stories of people who made a difference, but does it inspire you? Probably not. But you really don't realize how many people you affect in your life, and it is for the better or worse depending on what you choose to do. I'm not saying to go out and change the world overnight. Just do something and you'll see a difference on a human level, bringing the best out of individuals. We were given the liberty by God (or for those who don't believe in God, natural law.) But our responsibility is to defend it. It's not much to ask a libertarian to be active. You are free not to oblige, but remember that not to act is to act. Individual liberty is worth defending.

Here are some suggestions to help restore liberty.

1) Acquire a copy of the Declaration of Independence and United States Constitution.

These documents aren't that long. read it. Then go the extra mile to

learn the intent of the words in the important documents.

2) Join a local Tea Party.

Tea parties tend to lean libertarian and are heavily reverent toward the Constitution, and rule of law, equal application of justice, and limited government. Tea parties are often sources for pocket Constitutions, available for a dollar donation.

3) Join a 9/12 group.

Sometimes a tea party is not right for you. I stopped attending my local tea party meetings for a few reasons: 1) they featured a guest who advocated active euthanasia. Active euthanasia means that the patient or their family have no say when it comes to allowing a person to live, and the government health system says that the patient must be direcly killed even if not terminal. This is far beyond passive euthanasia, where a person is removed from life support and allowed to die naturally. 2) The guest was hostile to Catholics for opposing active euthanasia, and even helped to foster anti-Catholicism among a few of its members. 3) The system itself was too organized; people had little room for input, and everyone followed a strict structure.

A 9/12 group may be more for you. For those of you who are Christian, a good analogy for a 9/12 group is a Bible study group for the U.S. Constitution. 9/12 groups are more social than tea party groups in general, offer an intimate setting, and provide discussions of the understanding of founding documents and their writers' intent.

4. Form your own tea party or 9/12 group.

Is there not one of these where you live? Your work could fill in a much-needed void. If you wish to form one of these groups for yourself, do the following:

- Offer pocket Constitutions
- Hold meetings in a public place, where attention to it can be drawn. If you hold meetings at a library, for instance, it may help you promote it.
- Be courteous. People of differing opinions will attend. Libertarian minded people ought to respect each other's opinions.
- Educate yourself. Do learn as much as you can on your own.
- Be a leader. People will look to the founder of the group for guidance.
- Be compassionate. Do good works for people in need and the less fortunate in your area, not in order to improve a false image of such groups, but because it will bless your group.
- Begin the meetings with a prayer. If atheists object, advise them that the prayer is an exercise of out First Amendment rights, and we do not wish to compel you to pray. The prayers are voluntary. Believers are to respect atheists' rights to their deeply-held convictions, and atheists are to respect people of faith's right to pray.
- Don't ostracize people for speaking an unpopular opinion. That speaks of statism. Besides, maybe it's you who are wrong!
- IMPORTANT! Be wary and always on a lookout for infiltrators. Do it with vigilance. Progressives HATE people with opinions different from their own and will go to great lengths to destroy you. Cass Sustein instructs statists to do this everywhere at a local level. There is usually one in every group who is also astute at weeding out such people. Let

each member of a group use his/her talents.

5. Join your local libertarian party

There may be a libertarian party in your area. Join them and do what you can to raise awareness of issues of individual liberty.

6. Run for local office as a libertarian.

Many offices in your local area are probably unopposed. Why not run for office as a libertarian? You can fill a position and actually influence the outcome of events. Keep in mind that campaigning and your work requires an investment of much time. Run as a democrat or republican if you wish, but be libertarian, and proclaim yourself as such.

7. Form a libertarian party in your area.

Maybe you need to fill a void where both parties in your area don't respect freedom. A new libertarian party will energize people looking for a new solution. This will also take a lot of your time, but you can seek out and support other candidates if you are not interested in pursuing office yourself. Conduct your party as you would a tea party or 9/12 group.

8. Be social on the internet.

You don't know how many people you can reach by connecting to others. Keep in contact with others on your favorite, or least despised, social media. Twitter hashtags to read are #tcot (top conservatives on Twitter) and #tlot (top libertarians on Twitter). Follow people who use these hashtags and read their posted stories. Retweet and "favorite" them. Spread the message. Also do not forget the power of REAL LIFE socializing, which is the reason the real-life 9/12 and tea party groups are so crucial!

9. Get involved in your local home schooling group.

While the public school system is busy making children uneducated and ignorant and unable to think for themselves (this is NOT hyperbole), you can use your talent to teaching children libertarian principles. One of the goals of school is not only educating, but to advocate free thought: the cornerstone of libertarianism. If only children today learned basic civics, as adults they would not stand for gross violations of their basic rights that used to only take place in third world dictatorships. They deserve this. give the children the education they need and want. With so much on education being a "right", they are certainly being unserved by the very government who keeps chanting this absurd mantra!

* * *

These are just a few ways a person can make a difference. Why not consider one or two, pray on the decision if you are faithful, or make a reasoned contemplation if you aren't, and do the part you think is the one you were meant to fill.

Don't go in with the mission to change the world. Those people will rarely succeed, and when they do, they tend to be statists who impose their will on others and strip the rights of mankind. Just go in with the wish to be the one person who wants to be active for good. And, if the one person goes in with sincerity and humility to help defend the rights of everyone, that one can touch ten people, who in turn will touch a hundred, who will touch a thousand, and so on, until the world DOES become a better place.

So what are you waiting for? ((L))

> Don't hurt others <
> and don't take their stuff. <

SUPREME COURT OF THE UNITED STATES

No. 14–114
DAVID KING, ET AL., PETITIONERS v. SYLVIA BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June 25, 2015]

JUSTICE SCALIA, with whom JUSTICE THOMAS and JUSTICE ALITO join, dissenting.
The Court holds that when the Patient Protection and Affordable Care Act says "Exchange established by the State" it means "Exchange established by the State or the Federal Government." That is of course quite absurd, and the Court's 21 pages of explanation make it no less so.

I

The Patient Protection and Affordable Care Act makes major reforms to the American health-insurance market. It provides, among other things, that every State "shall . . .establish an American Health Benefit Exchange"—a marketplace where people can shop for health-insurance plans. 42 U. S. C. §18031(b)(1). And it provides that if a State does not comply with this instruction, the Secretary of Health and Human Services must "establish and operate such Exchange within the State." §18041(c)(1).

A separate part of the Act—housed in §36B of the Internal Revenue Code—grants "premium tax credits" to subsidize certain purchases of health insurance made on Exchanges. The tax credit consists of "premium assistance amounts" for "coverage months." 26 U. S. C. §36B(b)(1). An individual has a coverage month only when he is covered by an insurance plan "that was enrolled in through an Exchange established by the State under [§18031]." §36B(c)(2)(A). And the law ties the size of the premium assistance amount to the premiums for health plans which cover the individual "and which were enrolled in through an Exchange established by the State under [§18031]." §36B(b)(2)(A). The premium assistance amount further depends on the cost of certain other insurance plans "offered through the same Exchange." §36B(b)(3)(B)(i).

This case requires us to decide whether someone who buys insurance on an Exchange established by the Secretary gets tax credits. You would think the answer would be obvious—so obvious there would hardly be a need for the Supreme Court to hear a case about it. In order to receive any money under §36B, an individual must enroll in an insurance plan through an "Exchange established by the State." The Secretary of Health and Human Services is not a State. So an Exchange established by the Secretary is not an Exchange established by the State—which means people who buy health insurance through such an Exchange get no money under §36B.

Words no longer have meaning if an Exchange that is *not* established by a State is "established by the State." It is hard to come up with a clearer way to limit tax credits to state Exchanges than to use the words "established by the State." And it is hard to come up with a reason to include the words "by

the State" other than the purpose of limiting credits to state Exchanges. "[T]he plain, obvious, and rational meaning of a statute is always to be preferred to any curious, narrow, hidden sense that nothing but the exigency of a hard case and the ingenuity and study of an acute and powerful intellect would discover." *Lynch v. Alworth-Stephens Co.*, 267 U. S. 364, 370 (1925) (internal quotation marks omitted). Under all the usual rules of interpretation, in short, the Government should lose this case. But normal rules of interpretation seem always to yield to the overriding principle of the present Court: The Affordable Care Act must be saved.

II

The Court interprets §36B to award tax credits on both federal and state Exchanges. It accepts that the "most natural sense" of the phrase "Exchange established by the State" is an Exchange established by a State. *Ante*, at 11. (Understatement, thy name is an opinion on the Afford- able Care Act!) Yet the opinion continues, with no semblance of shame, that "it is also possible that the phrase refers to **all** Exchanges—both State and Federal." *Ante*, at 13. (Impossible possibility, thy name is an opinion on the Affordable Care Act!) The Court claims that "the context and structure of the Act compel [it] to depart from what would otherwise be the most natural reading of the pertinent statutory phrase." *Ante*, at 21.

I wholeheartedly agree with the Court that sound interpretation requires paying attention to the whole law, not homing in on isolated words or even isolated sections. Context always matters. Let us not forget, however, why context matters: It is a tool for understanding the terms of the law, not an excuse for rewriting them.

Any effort to understand rather than to rewrite a law must accept and apply the presumption that lawmakers use words in "their natural and ordinary signification." *Pensacola Telegraph Co. v. Western Union Telegraph Co.*, 96 U. S. 1, 12 (1878). Ordinary connotation does not always prevail, but the more unnatural the proposed interpretation of a law, the more compelling the contextual evidence must be to show that it is correct. Today's interpretation is not merely unnatural; it is unheard of. Who would ever have dreamt [sic] that "Exchange established by the State" means "Exchange established by the State or the Federal Government"? Little short of an express statutory definition could justify adopting this singular reading. Yet the only pertinent definition here provides that "State"means "each of the 50 States and the District of Columbia." 42 U. S. C. §18024(d). Because the Secretary is neither one of the 50 States nor the District of Columbia, that definition positively contradicts the eccentric theory that an Exchange established by the Secretary has been established by the State.

Far from offering the overwhelming evidence of meaning needed to justify the Court's interpretation, other contextual clues undermine it at every turn. To begin with,other parts of the Act sharply distinguish between the establishment of an Exchange by a State and the establishment of an Exchange by the Federal Government. The States' authority to set up Exchanges comes from one provision, §18031(b); the Secretary's authority comes from an entirely different provision, §18041(c). Funding for States to establish Exchanges comes from one part of the law, §18031(a); funding for the Secretary to establish Exchanges comes from an entirely different part of the law, §18121. States generally run state-created Exchanges; the Secretary generally runs federally created Exchanges. §18041(b)–(c). And the Secretary's authority to set up an Exchange in a State depends upon the State's"*[f]ailure* to establish [an] Exchange."

§18041(c) (emphasis added). Provisions such as these destroy any pretense that a federal Exchange is in some sense also established by a State.

Reading the rest of the Act also confirms that, as relevant here, there are *only* two ways to set up an Exchange in a State: establishment by a State and establishment by the Secretary. §§18031(b), 18041(c). So saying that an Exchange established by the Federal Government is "established by the State" goes beyond giving words bizarre meanings; it leaves the limiting phrase "by the State" with no operative effect at all. That is a stark violation of the elementary principle that requires an interpreter "to give effect, if possible, to every clause and word of a statute." *Montclair v. Ramsdell*, 107 U. S. 147, 152 (1883). In weighing this argument, it is well to remember the difference between giving a term a meaning that duplicates another part of the law, and giving a term no meaning at all. Lawmakers sometimes repeat themselves—whether out of a desire to add emphasis, a sense of belt-and suspenders caution, or a lawyerly penchant for doublets (aid and abet, cease and desist, null and void). Lawmakers do not, however, tend to use terms that "have no operation at all." *Marbury v. Madison*, 1 Cranch 137, 174 (1803). So while the rule against treating a term as a redundancy is far from categorical, the rule against treating it as a nullity is as close to absolute as interpretive principles get. The Court's reading does not merely give "by the State" a duplicative effect; it causes the phrase to have no effect whatever.

Making matters worse, the reader of the whole Act will come across a number of provisions beyond §36B that refer to the establishment of Exchanges by States. Adopting the Court's interpretation means nullifying the term "by the State" not just once, but again and again throughout the Act. Consider for the moment only those parts of the Act that mention an "Exchange established by the State" in connection with tax credits:

- The formula for calculating the amount of the tax credit, as already explained, twice mentions "an Exchange established by the State." 26 U. S. C. §36B(b)(2)(A), (c)(2)(A)(i).
- The Act directs States to screen children for eligibility for "[tax credits] under section 36B" and for "any other assistance or subsidies available for coverage obtained through" an "Exchange established by the State." 42 U. S. C. §1396w–3(b)(1)(B)–(C).
- The Act requires "an Exchange established by the State" to use a "secure electronic interface" to determine eligibility for (among other things) tax credits. §1396w–3(b)(1)(D).
- The Act authorizes "an Exchange established by the State" to make arrangements under which other state agencies "determine whether a State resident is eligible for [tax credits] under section 36B." §1396w–3(b)(2).
- The Act directs States to operate Web sites that allow anyone "who is eligible to receive [tax credits] under section 36B" to compare insurance plans offered through "an Exchange established by the State." §1396w–3(b)(4).
- One of the Act's provisions addresses the enrollment of certain children in health plans "offered through an Exchange established by the State" and then discusses the eligibility of these children for tax credits. §1397ee(d)(3)(B).

It is bad enough for a court to cross out "by the State" once. But seven times?

Congress did not, by the way, repeat "Exchange established by the State under [§18031]" by rote throughout the Act. Quite the contrary, clause after clause

of the law uses a more general term such as "Exchange" or "Exchange established under [§18031]." See, *e.g.*, 42 U. S. C. §§18031(k), 18033; 26 U. S. C. §6055. It is common sense that any speaker who says "Exchange" some of the time, but "Exchange established by the State" the rest of the time, probably means something by the contrast.

Equating establishment "by the State" with establishment by the Federal Government makes nonsense of other parts of the Act. The Act requires States to ensure (on pain of losing Medicaid funding) that any "Exchange established by the State" uses a "secure electronic interface" to determine an individual's eligibility for various benefits (including tax credits). 42 U. S. C. §1396w–3 (b)(1)(D). How could a State control the type of electronic interface used by a federal Exchange? The Act allows a State to control contracting decisions made by "an Exchange established by the State." §18031(f)(3). Why would a State get to control the contracting decisions of a federal Exchange? The Act also provides "Assistance to States to establish American Health Benefit Exchanges" and directs the Secretary to renew this funding "if the State . . . is making progress . . . toward . . . establishing an Exchange." §18031(a). Does a State that refuses to set up an Exchange still receive this funding, on the premise that Exchanges established by the Federal Government are really established by States? It is presumably in order to avoid these questions that the Court concludes that federal Exchanges count as state Exchanges only "for purposes of the tax credits." *Ante*, at 13. (Contrivance, thy name is an opinion on the Affordable Care Act!)

It is probably piling on to add that the Congress that wrote the Affordable Care Act knew how to equate two different types of Exchanges when it wanted to do so. The Act includes a clause providing that "[a] *territory* that . . . establishes . . . an Exchange . . . shall be treated as a State" for certain purposes. §18043 (a) (emphasis added).Tellingly, it does not include a comparable clause providing that the *Secretary* shall be treated as a State for purposes of §36B when *she* establishes an Exchange.

Faced with overwhelming confirmation that "Exchange established by the State" means what it looks like it means, the Court comes up with argument after feeble argument to support its contrary interpretation. None of its tries comes close to establishing the implausible conclusion that Congress used "by the State" to mean "by the State or not by the State."

The Court emphasizes that if a State does not set up an Exchange, the Secretary must establish "such Exchange." §18041(c). It claims that the word "such" implies that federal and state Exchanges are "the same." *Ante*, at 13. To see the error in this reasoning, one need only consider a parallel provision from our Constitution: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter *such Regulations*." Art. I, §4, cl. 1 (emphasis added). Just as the Affordable Care Act directs States to establish Exchanges while allowing the Secretary to establish "such Exchange" as a fallback, the Elections Clause directs state legislatures to prescribe election regulations while allowing Congress to make "such Regulations" as a fallback. Would anybody refer to an election regulation made by Congress as a "regulation prescribed by the state legislature"? Would anybody say that a federal election law and a state election law are in all respects equivalent? Of course not. The word "such" does not help the Court one whit. The Court's argument also overlooks the rudimentary principle that a specific provision governs a general one. Even if it were true that the term "such Exchange" in §18041(c) implies that federal and state Exchanges are the

same in general, the term"established by the State" in §36B makes plain that they differ when it comes to tax credits in particular.

The Court's next bit of interpretive jiggery-pokery involves other parts of the Act that purportedly presuppose the availability of tax credits on both federal and state Exchanges. *Ante*, at 13–14. It is curious that the Court is willing to subordinate the express words of the section that grants tax credits to the mere implications of other provisions with only tangential connections to tax credits. One would think that interpretation would work the other way around. In any event, each of the provisions mentioned by the Court is perfectly consistent with limiting tax credits to state Exchanges. One of them says that the minimum functions of an Exchange include (alongside several tasks that have nothing to do with tax credits) setting up an electronic calculator that shows "the actual cost of coverage after the application of any premium tax credit." 42 U. S. C. §18031(d)(4)(G). What stops a federal Exchange's electronic calculator from telling a customer that his tax credit is zero? Another provision requires an Exchange's outreach program to educate the public about health plans, to facilitate enrollment, and to "distribute fair and impartial information" about enrollment and "the availability of premium tax credits." §18031(i)(3)(B).What stops a federal Exchange's outreach program from fairly and impartially telling customers that no tax credits are available? A third provision requires an Exchange to report information about each insurance plan sold—including level of coverage, premium, name of the insured,and "amount of any advance payment" of the tax credit.26 U. S. C. §36B(f)(3). What stops a federal Exchange's report from confirming that no tax credits have been paid out?

The Court persists that these provisions "would make little sense" if no tax credits were available on federal Exchanges. *Ante*, at 14. Even if that observation were true, it would show only oddity, not ambiguity. Laws often include unusual or mismatched provisions. The Affordable Care Act spans 900 pages; it would be amazing if its provisions all lined up perfectly with each other. This Court "does not revise legislation . . . just because the text as written creates an apparent anomaly." *Michigan v. Bay Mills Indian Community*, 572 U. S. ___, ___ (2014) (slip op., at 10). At any rate, the provisions cited by the Court are not particularly unusual. Each requires an Exchange to perform a standardized series of tasks, some aspects of which relate in some way to tax credits. It is entirely natural for slight mismatches to occur when, as here, lawmakers draft "a single statutory provision" to cover "different kinds" of situations. *Robers v. United States*, 572 U. S. ___, ___ (2014) (slip op., at 4). Lawmakers need not, and often do not, "write extra language specifically exempting, phrase by phrase, applications in respect to which a portion of a phrase is not needed." *Ibid*.

Roaming even farther afield from §36B, the Court turns to the Act's provisions about "qualified individuals." Ante, at 10–11. Qualified individuals receive favored treatment on Exchanges, although customers who are not qualified individuals may also shop there. See *Halbig v. Burwell*, 758 F. 3d 390, 404–405 (CADC 2014). The Court claims that the Act must equate federal and state establishment of Exchanges when it defines a qualified individual as someone who (among other things) lives in the "State that established the Exchange," 42 U. S. C. §18032(f)(1)(A).Otherwise, the Court says, there would be no qualified individuals on federal Exchanges, contradicting (for example) the provision requiring every Exchange to take the "'interests of qualified individuals'" into account when selecting health plans. *Ante*, at 11 (quoting§18031(e)(1)(b)). Pure applesauce. Imagine that a university sends around a bulletin reminding every professor to take the "interests of graduate

students" into account when setting office hours, but that some professors teach only undergraduates. Would anybody reason that the bulletin implicitly presupposes that every professor has"graduate students," so that "graduate students" must really mean "graduate or undergraduate students"? Surely not. Just as one naturally reads instructions about graduate students to be inapplicable to the extent a particular professor has no such students, so too would one naturally read instructions about qualified individuals to be inapplicable to the extent a particular Exchange has no such individuals. There is no need to rewrite the term "State that established the Exchange" in the definition of "qualified individual," much less a need to rewrite the separate term "Exchange established by the State" in a separate part of the Act.

Least convincing of all, however, is the Court's attempt to uncover support for its interpretation in "the structure of Section 36B itself." Ante, at 19. The Court finds it strange that Congress limited the tax credit to state Exchanges in the formula for calculating the *amount* of the credit, rather than in the provision defining the range of taxpayers *eligible* for the credit. Had the Court bothered to look at the rest of the Tax Code, it would have seen that the structure it finds strange is in fact quite common. Consider, for example, the many provisions that initially make taxpayers of all incomes eligible for a tax credit, only to provide later that the amount of the credit is zero if the taxpayer's income exceeds a specified threshold. See, *e.g.*, 26 U. S. C. §24 (child tax credit); §32 (earned-income tax credit); §36 (first-time-home buyer tax credit). Or consider, for an even closer parallel, a neighboring provision that initially makes taxpayers of all States eligible for a credit, only to provide later that the amount of the credit may be zero if the taxpayer's State does not satisfy certain requirements. See §35 (health-insurance-costs tax credit).One begins to get the sense that the Court's insistence on reading things in context applies to "established by the State," but to nothing else. For what it is worth, lawmakers usually draft tax-credit provisions the way they do—i.e., the way they drafted §36B—because the mechanics of the credit require it. Many Americans move to new States in the middle of the year. Mentioning state Exchanges in the definition of "coverage month"—rather than (as the Court proposes) in the provisions concerning taxpayers' eligibility for the credit—accounts for taxpayers who live in a State with a state Exchange for a part of the year, but a State with a federal Exchange for the rest of the year. In addition, §36B awards a credit with respect to insurance plans "which cover the taxpayer, the taxpayer's spouse, or any dependent . . . of the taxpayer and which were enrolled in through an Exchange established by the State." §36B(b) (2)(A) (emphasis added). If Congress had mentioned state Exchanges in the provisions discussing taxpayers' eligibility for the credit, a taxpayer who buys insurance from a federal Exchange would get no money,even if he has a spouse or dependent who buys insurance from a state Exchange—say a child attending college in a different State. It thus makes perfect sense for Exchange established by the State" to appear where it does, rather than where the Court suggests. Even if that were not so, of course, its location would not make it any less clear.

The Court has not come close to presenting the compelling contextual case necessary to justify departing from the ordinary meaning of the terms of the law. Quite the contrary, context only underscores the outlandishness of the Court's interpretation. Reading the Act as a whole leaves no doubt about the matter: "Exchange established by the State" means what it looks like it means.

III

For its next defense of the indefensible, the Court turns to the Affordable

Care Act's design and purposes. As relevant here, the Act makes three major reforms. The guaranteed-issue and community-rating requirements prohibit insurers from considering a customer's health when deciding whether to sell insurance and how much to charge, 42 U. S. C. §§300gg, 300gg–1; its famous individual mandate requires everyone to maintain insurance coverage or to pay what the Act calls a "penalty," 26 U. S. C. §5000A(b)(1), and what we have nonetheless called a tax, see *National Federation of Independent Business v. Sebelius*, 567 U. S. ___, ___ (2012) (slip op., at 39); and its tax credits help make insurance more affordable. The Court reasons that Congress intended these three reforms to "work together to expand insurance coverage";and because the first two apply in every State, so must the third. Ante, at 16.

This reasoning suffers from no shortage of flaws. To begin with, "even the most formidable argument concerning the statute's purposes could not overcome the clarity[of] the statute's text." *Kloeckner v. Solis*, 568 U. S. ___, ___, n. 4 (2012) (slip op., at 14, n. 4). Statutory design and purpose matter only to the extent they help clarify another wise ambiguous provision. Could anyone maintain with a straight face that §36B is unclear? To mention just the highlights, the Court's interpretation clashes with a statutory definition, renders words inoperative in at least seven separate provisions of the Act, overlooks the contrast between provisions that say "Exchange" and those that say "Exchange established by the State," gives the same phrase one meaning for purposes of tax credits but an entirely different meaning for other purposes, and (let us not forget) contradicts the ordinary meaning of the words Congress used. On the other side of the ledger, the Court has come up with nothing more than a general provision that turns out to be controlled by a specific one,a handful of clauses that are consistent with either understanding of establishment by the State, and a resemblance between the tax-credit provision and the rest of the Tax Code. If that is all it takes to make something ambiguous,everything is ambiguous.

Having gone wrong in consulting statutory purpose at all, the Court goes wrong again in analyzing it. The purposes of a law must be "collected chiefly from its words,"not "from extrinsic circumstances." *Sturges v. Crowninshield*, 4 Wheat. 122, 202 (1819) (Marshall, C. J.). Only by concentrating on the law's terms can a judge hope to uncover the scheme *of the statute*, rather than some other scheme that the judge thinks desirable. Like it or not, the express terms of the Affordable Care Act make only two of the three reforms mentioned by the Court applicable in States that do not establish Exchanges. It is perfectly possible for them to operate independently of tax credits. The guaranteed-issue and community-rating requirements continue to ensure that insurance companies treat all customers the same no matter their health, and the individual mandate continues to encourage people to maintain coverage, lest they be "taxed."

The Court protests that without the tax credits, the number of people covered by the individual mandate shrinks, and without a broadly applicable individual mandate the guaranteed-issue and community-rating requirements "would destabilize the individual insurance market." Ante, at 15. If true, these projections would show only that the statutory scheme contains a flaw; they would not show that the statute means the opposite of what it says. Moreover, it is a flaw that appeared as well in other parts of the Act. A different title established a long-term-care insurance program with guaranteed-issue and community-rating requirements, but without an individual mandate or subsidies. §§8001–8002, 124 Stat. 828–847 (2010). This program never came into effect "only because Congress, in response to actuarial analyses predicting that the [program] would be fiscally unsustainable,repealed the provision in 2013." *Halbig*, 758 F. 3d, at 410. How could the Court say that Congress would never

dream of combining guaranteed-issue and community-rating requirements with a narrow individual mandate,when it combined those requirements with no individual mandate in the context of long-term-care insurance?

Similarly, the Department of Health and Human Services originally interpreted the Act to impose guaranteed-issue and community-rating requirements in the Federal Territories, even though the Act plainly does not make the individual mandate applicable there. *Ibid.*; see 26 U. S. C. §5000A(f)(4); 42 U. S. C. §201(f). "This combination, predictably, [threw] individual insurance markets in the territories into turmoil." *Halbig, supra*, at 410. Responding to complaints from the Territories, the Department at first insisted that it had "no statutory authority" to address the problem and suggested that the Territories "seek legislative relief from Congress" instead. Letter from G. Cohen, Director of the Center for Consumer Information and Insurance Oversight, to S. Igisomar, Secretary of Commerce of the Commonwealth of Northern Mariana Islands (July 12, 2013). The Department changed its mind a year later, after what it described as "a careful review of [the] situation and the relevant statutory language." Letter from M. Tavenner, Administrator of the Centers for Medicare and Medicaid Services, to G. Francis, Insurance Commissioner of the Virgin Islands (July 16, 2014). How could the Court pronounce it "implausible" for Congress to have tolerated instability in insurance markets in States with federal Exchanges, *ante*, at 17, when even the Government maintained until recently that Congress did exactly that in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands?

Compounding its errors, the Court forgets that it is no more appropriate to consider one of a statute's purposes in isolation than it is to consider one of its words that way. No law pursues just one purpose at all costs, and no statutory scheme encompasses just one element. Most relevant here, the Affordable Care Act displays a congressional preference for state participation in the establishment of Exchanges: Each State gets the first opportunity to set up its Exchange, 42 U. S. C. §18031(b); States that take up the opportunity receive federal funding for "activities . . .related to establishing" an Exchange, §18031(a)(3); and the Secretary may establish an Exchange in a State only as a fallback, §18041(c). But setting up and running an Exchange involve significant burdens—meeting strict deadlines, §18041(b), implementing requirements related to the offering of insurance plans, §18031(d)(4), setting up outreach programs, §18031(i), and ensuring that the Exchange is self-sustaining by 2015, §18031(d)(5)(A). A State would have much less reason to take on these burdens if its citizens could receive tax credits no matter who establishes its Exchange. (Now that the Internal Revenue Service has interpreted §36B to authorize tax credits everywhere, by the way, 34 States have failed to set up their own Exchanges. *Ante*, at 6.) So even if making credits available on all Exchanges advances the goal of improving healthcare markets, it frustrates the goal of encouraging state involvement in the implementation of the Act. **This** is what justifies going out of our way to read "established by the State" to mean "established by the State or not established by the State"?

Worst of all for the repute of today's decision, the Court's reasoning is largely self-defeating. The Court predicts that making tax credits unavailable in States that do not set up their own Exchanges would cause disastrous economic consequences there. If that is so, however, wouldn't one expect States to react by setting up their own Exchanges? And wouldn't that outcome satisfy two of the Act's goals rather than just one: enabling the Act's reforms to work and promoting state involvement in the Act's implementation? The Court protests that the very existence of a federal fallback shows that Congress expected that

some States might fail to set up their own Exchanges. *Ante*, at 19. So it does. It does not show, however, that Congress expected the number of recalcitrant States to be particularly large. The more accurate the Court's dire economic predictions, the smaller that number is likely to be. That reality destroys the Court's pretense that applying the law as written would imperil "the viability of the entire Affordable Care Act." *Ante*, at 20. All in all, the Court's arguments about the law's purpose and design are no more convincing than its arguments about context.

IV

Perhaps sensing the dismal failure of its efforts to show that "established by the State" means "established by the State or the Federal Government," the Court tries to palm off the pertinent statutory phrase as "inartful drafting." *Ante*, at 14. This Court, however, has no free-floating power "to rescue Congress from its drafting errors." *Lamie v. United States Trustee*, 540 U. S. 526, 542 (2004) (internal quotation marks omitted). Only when it is patently obvious to a reasonable reader that a drafting mistake has occurred may a court correct the mistake. The occurrence of a misprint may be apparent from the face of the law, as it is where the Affordable Care Act "creates three separate Section 1563s." *Ante*, at 14. But the Court does not pretend that there is any such indication of a drafting error on the face of §36B. The occurrence of a misprint may also be apparent because a provision decrees an absurd result—a consequence "so monstrous, that all mankind would, without hesitation, unite in rejecting the application." *Sturges*, 4 Wheat., at 203. But §36B does not come remotely close to satisfying that demanding standard. It is entirely plausible that tax credits were restricted to state Exchanges deliberately—for example, in order to encourage States to establish their own Exchanges. We therefore have no authority to dismiss the terms of the law as a drafting fumble. Let us not forget that the term "Exchange established by the State" appears twice in §36B and five more times in other parts of the Act that mention tax credits. What are the odds, do you think, that the same slip of the pen occurred in seven separate places? No provision of the Act—none at all—contradicts the limitation of tax credits to state Exchanges. And as I have already explained, uses of the term "Exchange established by the State" beyond the context of tax credits look anything but accidental. *Supra*, at 6. If there was a mistake here, context suggests it was a substantive mistake in designing this part of the law, not a technical mistake in transcribing it.

V

The Court's decision reflects the philosophy that judges should endure whatever interpretive distortions it takes in order to correct a supposed flaw in the statutory machinery. That philosophy ignores the American people's decision to give *Congress* "[a]ll legislative Powers" enumerated in the Constitution. Art. I, §1. They made Congress, not this Court, responsible for both making laws and mending them. This Court holds only the judicial power—the power to pronounce the law as Congress has enacted it. We lack the prerogative to repair laws that do not work out in practice, just as the people lack the ability to throw us out of office if they dislike the solutions we concoct. We must always remember, therefore, that "[o]ur task is to apply the text, not to improve upon it." *Pavelic & LeFlore v. Marvel Entertainment Group, Div. of Cadence Industries Corp.*, 493 U. S. 120, 126 (1989).

Trying to make its judge-empowering approach seem respectful of congressional authority, the Court asserts that its decision merely ensures that the Affordable Care Act operates the way Congress "meant [it] to operate." Ante, at

17. First of all, what makes the Court so sure that Congress "meant" tax credits to be available everywhere? Our only evidence of what Congress meant comes from the terms of the law, and those terms show beyondall question that tax credits are available only on state Exchanges. More importantly, the Court forgets that ours is a government of laws and not of men. That means we are governed by the terms of our laws, not by the unenacted will of our lawmakers. "If Congress enacted into law something different from what it intended, then it should amend the statute to conform to its intent." Lamie, supra, at 542. In the meantime, this Court "has no roving license. . . to disregard clear language simply on the view that . . . Congress 'must have intended' something broader." *Bay Mills, 572 U. S.*, at ___ (slip op., at 11).

Even less defensible, if possible, is the Court's claim that its interpretive approach is justified because this Act"does not reflect the type of care and deliberation that one might expect of such significant legislation." Ante, at 14–15. It is not our place to judge the quality of the care and deliberation that went into this or any other law. A law enacted by voice vote with no deliberation whatever is fully as binding upon us as one enacted after years of study, months of committee hearings, and weeks of debate. Much less is it our place to make everything come out right when Congress does not do its job properly. It is up to Congress to design its laws with care, and it is up to the people to hold them to account if they fail to carry out that responsibility.

Rather than rewriting the law under the pretense of interpreting it, the Court should have left it to Congress to decide what to do about the Act's limitation of tax credits to state Exchanges. If Congress values above everything else the Act's applicability across the country, it could make tax credits available in every Exchange. If it prizes state involvement in the Act's implementation, it could continue to limit tax credits to state Exchanges while taking other steps to mitigate the economic consequences predicted by the Court. If Congress wants to accommodate both goals, it could make tax credits available everywhere while offering new incentives for States to set up their own Exchanges. And if Congress thinks that the present design of the Act works well enough, it could do nothing. Congress could also do something else altogether, entirely abandoning the structure of the Affordable Care Act. The Court's insistence on making a choice that should be made by Congress both aggrandizes judicial power and encourages congressional lassitude.

Just ponder the significance of the Court's decision to take matters into its own hands. The Court's revision of the law authorizes the Internal Revenue Service to spend tens of billions of dollars every year in tax credits on federal Exchanges. It affects the price of insurance for millions of Americans. It diminishes the participation of the States in the implementation of the Act. It vastly expands the reach of the Act's individual mandate, whose scope depends in part on the availability of credits. What a parody today's decision makes of Hamilton's assurances to the people of New York: "The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over . . . the purse; no direction . . . of the wealth of society, and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL but merely judgment." The Federalist No. 78, p. 465 (C. Rossiter ed. 1961).

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Today's opinion changes the usual rules of statutory interpretation for the sake of the Affordable Care Act. That, alas, is not a novelty. In *National Federation of Independent Business v. Sebelius*, 567 U. S. ___, this Court revised major components of the statute in order to save them from unconstitutionality. The Act that Congress passed provides that every individual "shall" maintain insurance or else pay a "penalty." 26 U. S. C. §5000A. This Court, however, saw that the Commerce Clause does not authorize a federal mandate to buy health insurance. So it rewrote the mandate-cum-penalty as a tax. 567 U. S., at ___-___ (principal opinion) (slip op., at 15–45). The Act that Congress passed also requires every State accept an expansion of its Medicaid program, or else risk losing all Medicaid funding. 42 U. S. C. §1396c. This Court, however, saw that the Spending Clause does not authorize this coercive condition. So it rewrote the law to withhold only the *incremental* funds associated with the Medicaid expansion. 567 U. S., at ___-___ (principal opinion) (slip op., at 45–58). Having transformed two major parts of the law, the Court today has turned its attention to a third. The Act that Congress passed makes tax credits available only on an "Exchange established by the State." This Court, however, concludes that this limitation would prevent the rest of the Act from working as well as hoped. So it rewrites the law to make tax credits available everywhere. We should start calling this law SCOTUS care.

Perhaps the Patient Protection and Affordable Care Act will attain the enduring status of the Social Security Act or the Taft-Hartley Act; perhaps not. But this Court's two decisions on the Act will surely be remembered through the years. The somersaults of statutory interpretation they have performed ("penalty" means tax, "further [Medicaid] payments to the State" means only incremental Medicaid payments to the State, "established by the State" means not established by the State) will be cited by litigants endlessly, to the confusion of honest jurisprudence. And the cases will publish forever the discouraging truth that the Supreme Court of the United States favors some laws over others, and is prepared to do whatever it takes to uphold and assist its favorites.

I dissent.

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D. N. S. L O O K U P F A I L E D - By Synonymous 1 -

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Well, that was quite a bit of heavy reading, but expect yet another FATT issue of LiberTORian next time! You see, next issue we'll be talking all about human rights and fat! Trans-Fat, in particular. The U.S. FDA, under our esteemed leader, has made trans-fat illegal as of zero hour: June 17th, 2018. Until then, expect Barack and Michelle to hoard a stock pile for themselves so they'd still

be able to enjoy it, while the rest of us suffer, since it's obvious the folks at BIG BROTHER know what is best for us much better than we do! Or it just part of what needs to be done now that they've taken over, and now have to ration, health care? As a libertarian, I'll leave it to you to decide. Until then, continue to fight for your rights, be it economic, social, or whatever. And since the forces of tyranny are striking at freedoms from all sides,

we must be ever-vigilant!

--- E N D O F F I L E ---